

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

- against -

MICHAEL ANNUCCI,  
also known as "Mickey Annucci," and  
FRANK PROSCIA,  
also known as "Frankie Proscia,"  
  
Defendants.  
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**NOTICE OF MOTION**

**06 Cr. 982 (S-2) (BSJ)**

PLEASE TAKE NOTICE, that upon the annexed affirmation of **CHARLES A. ROSS**, the accompanying Memorandum of Law, the superseding indictment filed against the defendant, **FRANK PROSCIA**, and upon all proceedings heretofore had herein, the undersigned, on behalf of the defendant, **FRANK PROSCIA**, will move this Court, before the Honorable Barbara S. Jones, United States District Judge, United States District Court, Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date and time to be determined by the Court, for an order granting the following relief:

- (a) Granting Frank Proscia's motion to sever under Federal Rule of Criminal Procedure 14 on the ground that a joint trial will severely prejudice him and deprive him a fair trial;
- (b) Dismissing count two of the indictment because it fails to allege a crime;
- (c) Ordering the government to strike unnecessary and prejudicial surplusage from the indictment;
- (d) Ordering the government to provide Frank Proscia with a limited bill of particulars;
- (e) Ordering the government to disclose the requested and required discovery;

- (f) Ordering the government to disclose prior bad act evidence which it intends to introduce pursuant to Federal Rule of Evidence 404(b);
- (g) Permitting Frank Proscia to join in, and adopt by reference, the motions of his co-defendant, to the extent that they are neither inconsistent with nor antagonistic to his position;
- (h) Reserving Mr. Proscia's right to make additional motions that may become necessary as a result of further discovery; and
- (i) Granting such other and further relief as the Court deems just and proper.

Dated: New York, New York  
August 30, 2007

The signature is written in cursive and includes the letters "CR" in a circle at the end.

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CHARLES A. ROSS (CR-1331)  
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